

**REMARKS/ARGUMENTS**

The Office Action mailed May 18, 2007, has been received and reviewed. Claims 18-22, 24 and 28-34 are currently pending in the application. Claims 18-22, 24 and 28-34 stand rejected. Applicants respectfully request reconsideration of the application in view of the remarks set forth hereinbelow.

**35 U.S.C. § 103(a) Obviousness Rejections**

Obviousness Rejection Based on U.S. Patent No. 6,866,117 to Moss in view of either U.S. Patent No. 4,947,959 to Yuen or U.S. Patent No. 3,811,151 to Kuemmerlin

Claims 18-22, 24 and 28-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moss (U.S. Patent No. 6,866,117) in view of either Yuen (U.S. Patent No. 4,947,959) or Kuemmerlin (U.S. Patent No. 3,811,151). Applicants respectfully traverse this rejection, as hereinafter set forth.

The Examiner relies on Moss as showing “the claimed hinge and rail assembly in figs. 33, 34 having abutment shoulders 242 that includes an arcuate portion adjacent 194, rail mounts 194, 196 or 20a and 20b and rails 18.” (Office Action, page 2). Additionally, the Examiner states that FIGS. 9, 14, 17, 24 and 25 of Moss show “rail mounts 20 having varying cross-sections, as set forth in claims 19, 20, 30 and 31, with the exception of the mount being inserted within the rails.” (*Id.*)

The Examiner cites Yuen and Kuemmerlin as showing “mounts inserted within their rails” and then states that it “would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Mount [sic] portions of Moss to enable insertion into its [sic] rails as shown in fig. 17, as taught by either Yuen or Kummerlin, for attaching his mounts interiorly of his rails.” (*Id.*) Applicants respectfully disagree..

Applicants note that the present application claims priority to U.S. Provisional Patent Application No. 60/425,449 filed on November 11, 2002. The currently claimed invention was described in the aforementioned provisional application (see, e.g., paragraphs [0052]-[0068], FIGS. 5A-7E, and claims 18 – 24 of U.S. Provisional Patent Application No. 60/425,449).

U.S. Patent 6,866,117 to Moss issued from an application filed on April 5, 2002 and which was previously published on Oct. 9, 2003. In other words, with regard to timing requirements, Moss appears to be the type of reference described under 35 U.S.C. § 102(e).

Additionally, the application underlying U.S. Patent 6,866,117 to Moss (and thus the issued patent as well) is assigned to Wing Enterprises, Inc. as recorded with the United States Patent and Trademark Office on July 22, 2002 at Reel No. 013119, Frame No. 0410. The present application was obligated to be assigned to Wing Enterprises, Inc. as is evidenced by the recording of its assignment with the United States Patent and Trademark Office on April 2, 2004 at Reel No. 015165, Frame No. 0671.

Since the present application was obligated to be assigned to the same assignee as U.S. Patent 6,866,177 to Moss at the time of its invention, and since Moss appears to qualify as a 35 U.S.C. § 102(e) type referenced, Applicants submit that Moss is unavailable as a prior art reference, under 35 U.S.C. § 103(c), for use in a rejection based on 35 U.S.C. § 103.

Without the availability of Moss as a prior art reference for a rejection under 35 U.S.C. § 103(a), Applicants submit that the presently considered rejection of claims 18-22, 24 and 28-34 is moot. As such, Applicants make no further comments regarding the applicability or teachings of the applied references.

### **CONCLUSION**

Claims 18-22, 24 and 28-34 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,



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